

MEMORANDUM

Date: February 3, 2014
To: Members of the Newport Beach Land Use Element Advisory Committee
From: Woodie Tescher, The Planning Center|DC&E
Subject: Clarification of Mandates for Climate Change and Greenhouse Gas Emissions—Citywide and Project Specific Applications

By statute, regions are obligated to establish targets and strategies to reduce greenhouse gas emissions (as discussed in the December 13, 2013 memorandum). In its review of draft general plans and their environmental impact reports, the State Attorney General extends this mandate to local communities requiring establishment of local reduction on a citywide basis¹. Though a citywide obligation, the California Environmental Quality Act (CEQA) requires that development projects statutorily subject to CEQA analysis (i.e., preparation of a complete Environmental Impact Report, Subsequent or Supplemental EIR, Mitigated Negative Declaration, and Negative Declaration) must also must document their potential emission impacts and prescribe pertinent mitigation measures (see following text). Consequently, it would be inaccurate for the updated General Plan policies to limit their application for GHG emission reductions citywide, as in some cases, this requirement applies to development projects.

By enacting SB 97 in 2007, California's lawmakers expressly recognized the need to analyze greenhouse gas emissions as a part of the CEQA process. SB 97 required OPR to develop, and the Natural Resources Agency to adopt, amendments to the CEQA Guidelines addressing the analysis and mitigation of greenhouse gas emissions. Those CEQA Guidelines amendments clarified several points, including the following:

- Lead agencies must analyze the greenhouse gas emissions of proposed projects, and must reach a conclusion regarding the significance of those emissions. When assessing the significance of impacts from greenhouse gas emissions, a lead agency should consider the extent to which the project may increase or reduce greenhouse gas emissions as compared to the existing environmental setting. (See CEQA Guidelines § 15064.4.)*
- When a project's greenhouse gas emissions may be significant², lead agencies must consider a range of potential mitigation measures to reduce those emissions. In the case of the adoption of a plan, such as a general plan....mitigation may include the identification of specific measures that may be implemented on a project-by-project basis. (See CEQA Guidelines § 15126.4(c).)*
- Lead agencies may significantly streamline the analysis of greenhouse gases on a project level by using a programmatic greenhouse gas emissions reduction plan meeting certain criteria. (See CEQA Guidelines § 15183.5(b).)*
- CEQA mandates analysis of a proposed project's potential energy use (including transportation-related energy), sources of energy supply, and ways to reduce energy demand, including through the use of efficient transportation alternatives. (See CEQA Guidelines, Appendix F.)³*

Additionally, it is important to remember that Newport Beach's existing codes and ordinances mandate project-level reductions in energy and water consumption, as listed in the previous communication.

¹ <http://oag.ca.gov/environment/ceqa/litigation-settlements> and <http://oag.ca.gov/environment/ceqa/letters>

² Any project that does not reduce GHG emissions is considered to meet the criteria for significance and if mitigation measures are not identified achieving reduction, the community must adopt overriding considerations in certifying the CEQA document

³ <http://oag.ca.gov/environment/ceqa/letters>